

ADDENDUM: Fiscal Impact of 2009 FDA Food Code Adoption

The following is an addendum to the fiscal impact of the 2009 FDA Food Code adoption published in March 2012. Since the publication date, technical changes have been made and substantive changes have also been adopted because of comments. Please note that the rules as presented in the fiscal note approved by OSBM on 02/13/2012 have been renumbered because of changes made during the public comment period. The rules approved by the CPH may be accessed at the following link:

http://cph.publichealth.nc.gov/Rules/EnvHealth/15A_NCAC_18A_.2650-2676_Food_Protection_and_Sanitation_of_Food_Establishment.htm

Summary of Changes (and adjusted impact if applicable)

15A NCAC 18A .2651(5)

- Addition of language to clarify exemptions from the rules. This language is consistent with the language in the current definition of a food establishment.
- No Impact

15A NCAC 18A .2652(2)

- Clarifies that the person in charge is not required to be a certified food protection manager when the establishment is not operating and food is not being prepared, packaged, or served for immediate consumption.
- Changed because of Public Comment
- No Impact

15A NCAC 18A .2652(4)(B)

- Added congregate nutrition sites to the exemption from the certification requirement. These sites do not prepare potentially hazardous foods in advance, so it is consistent with the exemption for Category I facilities that are exempt.
- Changed because of Public Comment
- No Impact

15A NCAC 18A .2652(4)(C)

- Delays implementation of the certified food protection manager requirement until January 1, 2014 (approximately 15 months)
- Changed because of Public Comment
- **Impact—This effectively delays \$4,496,000 Industry Cost and \$391,000 Local Government Cost to Year two.**

15A NCAC 18A .2653(14)

- Delays implementation of the 41°F cold holding requirement an additional three years, to January 1, 2019.
- Changed because of public comment

- **Impact—This removes the \$855,600 Industry Cost and Local Government Cost of \$74,400 in year four.** In effect there will be no cost as a result of this rule. Rationale—The Division’s research shows that the average life span of refrigeration equipment is 10-12 years. However, the NC Retail Merchants Association polled their members and determined that 20 years was the expected life of refrigeration equipment. The average life span from these two surveys is 16 years. Refrigeration equipment replaced since 1999 is designed to meet the 41°F standard. Therefore, equipment purchased on or before 1999 will be replaced by 2015 because of the equipment life span.

15A NCAC 18A .2653(15)(A)(2)(b)

- Changed to be consistent with the delay to 41°F as previously described.
- Changed because of Public Comment
- No Change in Impact—Date marking still occurs at either 41°F or 45°F; this just allows the use of 45°F and four-day date marking to control *Listeria monocytogenes* for an additional three-year period.

15A NCAC 18A .2654(2)

- Clarifies the type of equipment that can be used in food establishments; rules reference was corrected.
- Change based on Staff Comment; Technical Change
- No Impact

15A NCAC 18A .2663

- Corrected a typo
- Technical Change
- No Impact

15A NCAC .2665(g) and (h)

- Deleted language that is unnecessary
- Changed as a result of a recommendation from DPH attorneys/affirmed by the Commission for Public Health (CPH)
- No Impact

15A NCAC 18A .2668(a)

- Corrected a citation
- Technical Change
- No Impact

15A NCAC 18A .2668(e)

- Added an additional reference to clarify how wash, rinse, and sanitizing solutions must be maintained.
- Changed based on Public Comment
- No Impact

15A NCAC 18A .2669(c)

- Corrected a citation
- Technical Change
- No Impact

15A NCAC 18A .2669(e)

- Terminology correction.
- Technical Change based on Public Comment
- No Impact

15A NCAC 18A .2670 (c) and (d)

- Paragraphs (c) and (d) were combined to simplify the language.
- Technical change based on Staff Comment
- No Impact

15A NCAC 18A .2673(2)

- Deleted due to a conflict with the definition
- Change based on Staff Comment/affirmed by the CPH
- No Impact

15A NCAC 18A .2673 (4), (5), and (7)

- Language unnecessary and already covered in references to .2650-.2662 in opening paragraph of .2673.
- Change based on Public Comment
- No Impact

15A NCAC 18A .2674 (5) and 9)

- Language unnecessary and already covered in references to .2650-.2662 in opening paragraph of .2674.
- Change based on Public Comment
- No Impact

15A NCAC 18A .2675

- Citation corrected
- Technical change
- No Impact

Based on the changes describe above, Table 1 from the fiscal note approved by OSBM on 02/13/2012 is revised below:

Table A1. Revised Summary of Costs and Benefits from the Proposed Rule Changes

Costs	Year 1 (2013)	Year 2 (2014)	Year 3 (2015)	Year 4 (2016)	Year 5 (2017)	Year 6 (2018)	Year 7 (2019)
Industry ¹	\$1,021,400	\$4,496,000					\$ 5,351,600
State Government ¹	\$400						
Local Government	\$908,300	\$391,000					\$ 465,400
Unquantifiable Costs	Yes						
Total Costs	\$1,930,100	\$4,887,000	\$0	\$0	\$0	\$0	\$5,817,000
4-year NPV of Costs²	\$ 9,694,862						
Benefits							
Industry	\$182,200	\$182,200	\$182,200	\$182,200	\$182,200	\$182,200	\$182,200
State Government	-	-	-	-	-	-	-
Local Government	\$15,800	\$15,800	\$15,800	\$15,800	\$15,800	\$15,800	\$15,800
Public	\$1,578,900	\$1,578,900	\$1,578,900	\$1,578,900	\$1,578,900	\$1,578,900	\$1,578,900
Unquantifiable Benefits	Yes						
Total Benefits	\$1,776,900						
4-year NPV of Benefits²	\$ 9,576,228						

¹ The industry and local governments would incur in 2019 costs of \$855,600 and \$74,400, respectively, related to the replacement of old refrigerators that cannot maintain a temperature of 41°F. Also, in 2019 establishments would have to renew their food protection manager certification.

² Net Present Value (NPV) is computed using a 7% discount rate.